GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Agriculture & Cooperation (H&S) Department - Sericulture - Implementation of the orders dated:24.01.2023 of the Hon'ble High Court of A.P., Amaravathi in W.P (AT) No.866 of 2021 - Cancellation - Orders – Issued.

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AGRICULTURE & COOPERATION (H&S) DEPARTMENT

G.O.MS.No. 99 Dated: 19-12-2024

Read the following:-

1. G.O.Ms.No.104, Finance (HR.IV) Department, dt.28.08.2015.
2. Cir.Memo. No.92830/151/HR.IV/2016, Finance (HR.IV) Department, dt.28.06.2016.
3. Individual representations, dt.20.11.2015 and 26.11.2015.
4. Proceedings. Rc.No.339/2015/E1, dt.19.09.2016 of Joint Director of Sericulture, Chittoor.
5. Proceedings. Rc.No.411/2015/E1, dt.18.10.2016 of Joint Director of Sericulture, Chittoor.
6. Proceedings. Rc.No.618/SERI/2016, dt.27.01.2017 of Deputy Director of Sericulture, Kakinada.
7. Proceedings. Rc.No.1381/2015/B1A, dt.01.09.2016 of Commissioner of Sericulture, Guntur.
8. Hon'ble High Court Orders in W.P(AT)No.866 of 2021, dated:24.01.2023.
9. Review I.A No.1 of 2023 in W.P.(AT) No.866/2021 filed by Agriculture Department.
10. Hon'ble High Court Orders in Contempt Case No.3473/2023 in WP (AT) No.866 of 2021dt. 31.10.2023.
11. Letter Rc.No.995/2023-Estt.-I of Commissioner of Sericulture, Guntur, dt.24.11.2023.
12. G.O.Ms.No.65, Agriculture & Cooperation(H&S) Dept., dt:24.11.2023.
13. From the Hon'ble High Court, Orders in Writ Appeal No.4 of 2024 dt:28.03.2024 against the orders in WP (AT) No.866 of 2021, dt.31.10.2023.

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ORDER:-

As per the orders issued vide reference 1st cited, the following (4) employees of Sericulture Department were re-inducted into service after their retirement in Telangana on attaining the age of superannuation of 58 years. The details are as below:

Sl.No.	Name of the employee and Designation	Date of Retirement in Telanagana	Date of Re-induction in Government of A.P.	Interregnum Period
1	M.Eswaraiah, Assistant, Director	30.06.2014	28.08.2015	01.07.2014 to 27.08.2015
2	V. Bhaskar Reddy, Assistant, Director	28.02.2015	31.08.2015	01.03.2015 to 30.08.2015
3	B.Bhushnam, Assistant, Director	30.11.2014	28.08.2015	01.12.2014 to 27.08.2015
4	J.Sumana, Assistant, Director	31.05.2015	28.08.2015	01.06.2015 to 27.08.2015

2. The individuals filed W.P. (AT) No.866 of 2021 before the Hon'ble A.P. High Court, Amaravati to quash the G.O.Ms.No.104, Finance(HR.IV) Department, dated:28.08.2015, to the extent mentioned in Para 7(c) and direct the respondents to pay them full salary for the interregnum period as

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the Government treated the gap period i.e., from the date of their retirements in Telangana State to their re-induction in the A.P. State as interregnum period. The Hon'ble High Court of Andhra Pradesh was pleased to pass the following orders in W.P. (AT) No. 866 of 2021 on 24.01.2023:

> *"6. Learned counsel for the petitioners would contend that earlier the learned Tribunal passed the orders in similar circumstances and placed on record the order dated 20.08.2018 in O.A.No1673 of 2018 and batch. Therefore learned counsel for the petitioners requested to pass similar orders in this writ petition also.*
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> *7. As could be seen from the material placed by the petitioners that they were working in Sericulture Department in Telangana State as per the A.P Re-organization Act and they intended to be allotted to the State of Andhra Pradesh. The 1st respondent as per Act 4 of 2014, enhanced the age of superannuation of its employees with effect from 02.06.2014 from 58 to 60 years. Further the learned Tribunal passed an order in earlier circumstances, this Court also inclined to pass similar orders in this writ petition also ".*
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> *8. Accordingly, the Writ Petition is allowed, while declaring the impugned G.O.Ms.No.104, dated 28.08.2015 to the extent mentioned in Para 7(c) therein is declared as illegal, arbitrary and same is hereby quashed. Further the respondents are directed to pay the consequential benefits to the petitioners, within eight (08) weeks from the date of receipt of a copy of this order. There shall be no order as to costs".*

3. Government have filed Review I.A.No.1/2023 in W.P.(AT) No.866 of 2021 before the Hon'ble High Court of A.P. on the orders dated:24.01.2023 vide reference 9th read above.

4. Further, the petitioners filed Contempt Case No.3473/2023 on 14.07.2023 before the Hon'ble A.P. High Court in which the following orders were issued dt:31.10.2023

> *"Since I.A.No.1 of 2023 in W.P.(AT) No.866 of 2021 is dismissed.*
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> *Hence, the Contempt Case is posted for compliance of the order, post on 15-11-2023, failing which the respondents / Contemnors are directed to be present in-person before this Court".*

5. The C.C.No.3473/2023 in W.P(AT) No.866/2021 came up for hearing on 24-11-2023. The Hon'ble Judge has given time for compliance by 4.15 P.M. on 24.11.2023.

6. Based on the orders of the Hon'ble Judge, A.P High Court on 24.11.2023, Government vide reference 12th read above, have decided to Implement the orders of Hon'ble High Court of A.P., Amaravathi, dated.24.01.2023 in W.P (AT). No.866 of 2021 and ordered to pay the four (4) petitioners in W.P (AT). No.866 of 2021, full salary for the interregnum period i.e., from the date of their retirements in Telangana State to their re-induction in the A.P. State, subject to the liberty of the Government to file Writ Appeal before the Hon'ble

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High Court of A.P., Amaravati / SLPs before the Supreme Court of India, New Delhi and also subject to the outcome of the orders if any issued in the matter by the Hon'ble High Court of A.P., Amaravati and the Supreme Court of India, New Delhi.

8. Further, Government have filed Writ Appeal No.4 of 2024 before the Hon'ble High Court, A.P. against the orders dated:24.01.2023 passed in W.P.(AT) No.866/2021 filed by Sri M.Eswaraiah and (3) Others.

9. The Hon'ble High Court has allowed Writ Appeal no.4 of 2024 and the writ petition no. W.P.(AT) No.866/2021, stands dismissed. There shall be no order as to costs. The operative position of the judgment /orders is re – produced below for perusal.

> ".....(11) This being the position, we find absolutely no ground that would sustain the declaration by the learned Single Judge declaring Subparagraph (c) of paragraph 7 of the G.O. as illegal and arbitrary. We do not find any other provisions that would enable the petitioners to sustain their claim for payment of full salary. As noted supra, if the writ petition order is sustained, it would result in a position where the petitioners would be required even to refund the emoluments paid to them but for the enabling provision. The said sub-paragraph (c) of Paragraph 7 of the G.O. having been quashed, there is no other provision of law which enables the petitioners to demand payment or which cast a duty on the appellant state to make any payments. The relief granted in paragraph 8 of the writ petition order is a contradiction in terms. A enabling provision has been declared as arbitrary and illegal, this coupled with the petitioners not being in the employment of the State of Andhra Pradesh, the Petitioners could not have even maintained the prayer. The learned Single Judge could not have issued a direction directing payment of consequential benefits, as bereft of the above provision there is no privity of contract between the petitioners and the newly formed State of Andhra Pradesh. In that view the direction to pay consequential benefits is wholly illegal and unsustainable.
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> (12) Be that as it may, the learned Government Pleader for Services would submit that the state is bound by the G.O.Ms.No.104 and that the State has no intention of reneging on the promise made to the citizens. In that view of the matter and in view of the above discussion, we are of the considered opinion that the writ petition prayer was not maintainable as there was no privity of contract between the petitioners and the state of Andhra Pradesh nor was there any employer and employee relationship. In the absence of such a contract of employment, the question of directing the third party to pay a salary to a stranger is unknown to service jurisprudence. In that view of the matter and in view of the discussion herein above, the impugned order requires to be set aside and the writ appeal is to be allowed.
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> (13) Accordingly, the writ appeal is allowed and the writ petition stands dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ appeal shall stand closed.

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10. In view of the circumstances stated above, Government after careful examination, hereby cancel the orders issued in the G.O. 12th read above.

11. The Director of Sericulture, A.P., Guntur shall take immediate further necessary action, accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Director of Sericulture, Andhra Pradesh, Guntur.
The individuals concerned through the Director of Sericulture,
A.P., Guntur.
The Principal Accountant General, A.P., Vijayawada.
The Director of Treasuries, Mangalagiri, Andhra Pradesh.
The Finance (HR.IV, FR & LR) Department.
Copy to:
The O.S.D. to Hon'ble Minister (Agri.)
The P.S to Special Chief Secretary to Government,
Agriculture & Cooperation Department.
The P.S to Secretary to Government, Finance Department, A.P Secretariat.
The P.S to Secy. to Govt., Finance (HR) Department, A.P Secretariat.
SF/SC.

// FORWARDED BY : : ORDER //

SECTION OFFICER